v. *Miller,* 41 Conn. 112, holding such a deed voidable. The great majority of courts will give effect to the deed so far as this may be done without prejudicing the rights of partition and joint occupation of the non-assenting cotenants. *Soutter* v. *Porter,* 27 Maine 405; *McKey* v. *Welch,* 22 Tex. 390. And the courts are inclined to protect the purchaser as far as possible. *Furrh* v. *Winston,* 66 Tex. 521. Accordingly, the great weight of authority holds that, if upon partition, the grantor acquires an estate in severalty in the premises described in the deed, or any part thereof, this subsequently acquired estate vests in the grantee because of the doctrine of estoppel. *Kenoye* v. *Brown,* 82 Miss. 607; *Great Falls Co.* v. *Worster,* 15 N. H. 412; *Cressey* v. *Cressey,* 215 Mass. 65. However, the grantee can under no circumstances, acquire any interest in any part of the common property not described in his deed. *Great Falls Co.* v. *Worster, supra; Soutter* v. *Porter, supra.* What has been considered a different view was taken in *Lessee of White* v. *Sayre,* 2 Ohio 110, where it was held that since a cotenant can convey his interest in the entire common property, he can do so with regard to a specifically described part of that property. This view was approved in *Robinett* v. *Preston's Heirs,* 2 Rob. (Va.) 278; and *Stark* v. *Barrett,* 15 Cal. 361. Of course, this interest which he conveys is merely an undivided one, for he had no other to convey. *Gates* v. *Salmon,* 35 Cal. 576. But see *Barnhart* v. *Campbell,* 50 Mo. 597. However, upon analyzing the practical results of the Ohio doctrine, it will be seen that it differs little, if any, from the general view. The grantee acquires the same rights, although the court travels a different route in arriving at the result. The Ohio court says, in effect, that such a deed is valid, and therefore the grantee acquires the same rights in the particularly described premises as the grantor had; while other courts, supposedly following a different doctrine, say, in effect, that such a deed is voidable at the option of the other cotenants; if they confirm it, the grantee gets an estate in severalty in the part described, but if they elect to avoid it, the grantee has, nevertheless, the same rights in the described portion as the grantor had. It seems, therefore, that nearly all courts are agreed upon the result which should be attained in such cases, and that the court in the principal case achieved that result, and unknowingly made a decision practically in accord with the weight of authority. See 47 L. R. A. (N. S.) 573, note; FREEMAN ON COTENANCY AND PARTITION, secs. 199-288.

TREASON—EVIDENCE—OVERT ACT.—In a case where defendant was indicted for treason and the overt act was proved by the testimony of one witness plus circumstantial evidence so that proof of the overt act was well-nigh conclusive in fact, and where it was *held* that it is necessary for conviction of treason to produce two witnesses to the whole overt act, there was the following *dictum,* "It may be possible to piece together bits of the overt act, but if so, each bit must have the support of two oaths." *United States* v. *Robinson* (D. C., S. D., N. Y., 1919), 259 Fed. 685.

The probable attitude of the courts on the point raised in the above *dictum* of Hand, J., has long been a matter for speculation in cases suggesting it, but no case directly involving it has arisen in any of our courts. The

application of a rule thus broadening the method of this matter of proof, so guardedly conceded by Hand, J., would assuredly render conviction of treason possible in many cases where no reasonable doubt is left as to the defendant's guilt, but where strict adherence to the letter of the Constitution would not allow conviction. Indeed, the debates over Article 3, Sec. 2, relative to treason as chronicled in MADISON'S JOURNAL (Doc. Hist. of U. S., Vol. 3, pp. 568-571) show that there was not unanimity of opinion as to the wisdom of narrowing the methods of proof of the overt act. If the framers were themselves doubtful as to the limits of such proof, it seems justifiable that when circumstances arise revealing an imperative necessity for broadening the methods of proof of the overt act (lest persons unquestionably guilty go unscathed), it should be done if the addition or increase allowed be not inharmonious or repugnant to the reason for the two-witness rule in treason trials. The real reason basing the requirement of this rule is that in view of the great weight of the oath or duty of allegiance against the probability of the fact of treason, it has been deemed expedient to provide for conviction only by the method prescribed. 1 GREENL. EV., Sec. 255. Keeping in mind this reason, it is evident that while a lessening in the authenticity and solemnity of the proof of the overt act would be repugnant to the rule, a change in the method of proof of the same act which in no way impaired its solemn and authentic establishment would not come within its condemnation. Upon this reasoning it is possible to reconcile the departure of the same court in which the principal case came up from the letter of the Constitution in the case of *United States* v. *Frincke* (D. C., S. D., N. Y., 1919), 259 Fed. 673. Here, Mayer, J.. decided that in a prosecution for treason where the overt act is single, continuous and composite, though made up of several circumstances and stages, satisfaction of the Constitution does not require the testimony of two witnesses to each circumstance in every stage. This judge also intimated, however, that where, as in the principal case, the overt act was not continuous and composite, the testimony of two witnesses would be necessary to prove each circumstance going to establish the commission of the overt act. Thus perhaps the *dictum* in the principal case may be taken as indicative of the modern tendancy of the law relative to proof of the "overt act" designated in the Constitution, Art. 3, Sec. 3.

WILLS—TESTAMENTARY CHARACTER OF INSTRUMENT—CONTINGENT WILL.—An instrument duly executed according to the statute read, "In case of any serious accident, after my just debts are paid, I direct that my aunt, Miss Mary E. Clark, take entire charge of my estate for disposal as she sees fit." At the trial it appeared that the decedent, a resident of Iowa, contemplated a visit to California. He met with no serious accident, and died a natural death. *Held,* instrument was testamentary in character, not a contingent will, and so entitled to probate. *In re Tinsley's Will* (Ia., 1919), 174 N. W. 4.

The holding of this paper to be a will illustrates the length to which courts will go in construing informal documents as testamentary in character. The tendency is to find the *animus testandi* if there is any reasonable way possible. Accordingly, in form the writing may be a series of diary entries (*Reagan* v.